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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,457	10/03/2000	Godwin Dirk Zwanenburg	PHN 17,665	4571

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
1724	27

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/678,457	Applicant(s) Zwanenburg
Examiner Ivars Cintins	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on March 24, 2003 & April 15, 2003

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 4-9 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 4-9 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

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Prosecution before the Primary Examiner is hereby reopened, and the Final Rejection dated December 4, 2002 is withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Scholer (U.S. Patent No. 2,832,373), as evidenced by Ralston (U.S. Patent No. 2,278,488). Scholer discloses (see Fig. 14) a device comprising: a reservoir **22** for a solution of alkali metal chloride, which reservoir has an outlet **46**; a chamber **16** having an inlet **47** and an outlet **28**, wherein the inlet **47** of the chamber is directly connected to the outlet **46** of the reservoir and the outlet **46** of the reservoir is positioned at a higher level than the outlet **28** of the chamber; and a restriction (i.e. spring-loaded check valve **49**) situated in the flow path between the outlet **46** of the reservoir and the outlet **28** of the chamber (i.e. in inlet **47**); and this is all that is required by claims 4-6 and 9. This reference further discloses a filter **50** in the outlet of the reservoir, and a discharge tube **23** connected

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to the outlet of the chamber; and this is all that is further required by claims 7 and 8. Applicant should note that claims 4-9 do not positively recite the presence of a cartridge in the recited device because the term "for regenerating an ion exchange cartridge" (claim 9, lines 1-2) is merely a statement of intended use. It is well settled that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The device of Scholer is inherently capable of being used with an ion exchange cartridge, as evidenced by Ralston which shows that cartridges (see page 1, right column, lines 11 and 13) of ion exchange material (i.e. zeolite) can be placed in a tank; and this capability is all that is required by the claims 4-9.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholer in view of Ralston. Should it be held that claims 4-9 require the presence of an ion exchange cartridge, then it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the cartridges of zeolite material disclosed by Ralston (see page 1, right column, lines 11-13) for the loose zeolite material (see col. 5, line 75; and col. 6, lines 29 and 65) of Scholer, in order to facilitate the handling of the zeolite in the thus modified primary reference system.

Applicant's arguments contained in the brief filed March 24, 2003, and in the supplemental brief filed April 9, 2003, have been noted and carefully considered, but are not deemed to be persuasive of patentability. Applicant argues that the device of Scholer is not shown therein to regenerate an ion exchange cartridge. It is pointed out, however, that apparatus claims 4-9 do not require the presence of such a cartridge, as explained above; and therefore, the fact that Scholer fails to disclose such a cartridge is not deemed to be relevant, or persuasive of patentability for these claims. Furthermore, as pointed out above, a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the

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claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Applicant also argues that the restriction in Scholer is situated in the flow path between the outlet of the reservoir and the inlet of the chamber, not between the outlet of the reservoir and the outlet of the chamber, as recited in claim 9. Again, this argument has been noted and carefully considered, but is not deemed to be persuasive of patentability. It is pointed out that the restriction (i.e. spring-loaded check valve **49**) in the Scholer device is clearly situated in the flow path of regenerating solution from outlet **46** of reservoir **22** to outlet **28** of chamber **16**. The fact that inlet **47** of chamber **16** is also present in this flow path is not deemed to be relevant, or persuasive of patentability, since the claims do not preclude the presence of this inlet. Applicant should note that the device of the claimed invention also includes additional elements (e.g. coupling piece **13** and inlet **6**) in the regenerant flow path between the outlet **10** of the reservoir and the outlet **7** of the chamber.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can

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normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Blaine Copenheaver, can be reached at (703) 308-1261.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Ivars Cintins
Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
June 20, 2003